

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

v.

No. 3:15-cr-00312-MO-1

JAMES MICHAEL BOWIE,

OPINION AND ORDER

Defendant.

MOSMAN, J.,

This matter comes before me on Defendant James Michael Bowie's Motion for Compassionate Release [ECF 87]. Specifically, Bowie moves the court for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). For the following reasons, I DENY the motion.

LEGAL STANDARD

Compassionate release is a statutory exception to the rule that a court may not modify a term of imprisonment once it has been imposed. 18 U.S.C. § 3582(c). For the Court to grant a sentence reduction the Court must (1) find extraordinary and compelling reasons for the reduction, (2) consider the relevant sentencing factors under 18 U.S.C. § 3553(a), and (3) ensure any reduction is consistent with applicable policy statements. 18 U.S.C. § 3582(c)(1)(A). There are no applicable policy statements when the motion is filed by a defendant. *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (per curiam). The district court does not need to consider the sentencing factors if it denies compassionate release if it finds that there are no

extraordinary and compelling circumstances. *United States v. Keller*, 2 F.4th 1278, 1284 (9th Cir. 2021).

DISCUSSION

Bowie moves to reduce his sentence after completing 7 months of his 85-month sentence for Felon in Possession of Firearm, Felon in Possession of Ammunition, and Tampering with a Witness, Victim, or Informant. Mot. [ECF 87] at 1. Bowie is thirty years old and argues that he is at a heightened risk of severe illness or death from COVID-19 due to being obese and having asthma, hypertension, and chronic kidney disease. *Id.* at 1–2. At the time he filed his motion, Bowie was not vaccinated against COVID-19 but was seeking vaccination. Mot. [ECF 87] at 7. The government represents that Bowie is now vaccinated. Resp. in Opp'n [ECF 89] at 5.

Bowie filed his motion on February 11, 2022, as the surge of the Omicron variant began to precipitously decline across the country. Ctrs. for Disease Control & Prevention, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#trends_dailycases (last visited Mar. 14, 2022). Bowie is in the process of being transferred to FCI Victorville. Mot. [ECF 87] at 3. At the time he filed his motion, FCI Victorville had 254 active positive cases of COVID-19. *Id.* at 6. However, as of March 14, 2022, FCI Victorville has only 10 active positive cases of COVID-19 in inmates. The Federal Bureau of Prisons, *COVID-19 Cases*, <https://www.bop.gov/coronavirus/> (last visited Mar. 14, 2022).

Further, Bowie's age mitigates his risk even in light of his health conditions. Ctrs. for Disease Control & Prevention, *Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last visited Mar. 14, 2022), (“More than 81% of COVID-19 deaths occur in people over age 65. The number of deaths

among people over age 65 is 97 times higher than the number of deaths among people ages 18–29 years.”). In fact, the age group of individuals aged 30–39 accounts for only 1.8% of all deaths from COVID-19 even though this age group accounts for 16.9% of all COVID-19 cases. Centers for Disease Control and Prevention, *Demographic Trends of COVID-19 cases and deaths in the US reported to CDC*, <https://covid.cdc.gov/covid-data-tracker/#demographics> (last visited Mar. 14, 2022).

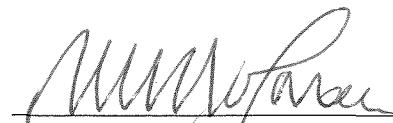
In light of Bowie’s age, his vaccination status, and the plummeting rates of COVID-19 in prisons and the community more broadly, I DENY Bowie’s motion as he has failed to establish extraordinary and compelling circumstances. Therefore, I do not address the 18 U.S.C. § 3553(a) sentencing factors. *Keller*, 2 F.4th at 1284.

CONCLUSION

For the foregoing reasons, I DENY Bowie’s Motion for Compassionate Release [ECF 87].

IT IS SO ORDERED.

DATED this 15th day of March, 2022.



MICHAEL W. MOSMAN
Senior United States District Judge